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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,720	02/23/2004	Richard J. Schatzberger	CS24439RA	9487

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EXAMINER	
KIM, WESLEY LEO	

ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 05/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/784,720	SCHATZBERGER ET AL.	
	Examiner	Art Unit	
	Wesley L. Kim	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 March 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7 and 15-37* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7 and 15-37* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

This Office Action is in response to Amendment filed on 3/16/06.

- Claims 1, 5-6, 15, 19-20, 22, 25-26, 28, 31-32 are currently amended.
- Claims 8-14 have been cancelled.
- Claims 34-37 are newly added.
- Claims 1-7 and 15-37 are pending in the current office action.

Response to Arguments

Applicant's arguments with respect to claim 1-7 and 15-37 have been considered but are moot in view of the new ground(s) of rejection.

- The applicant argues that Wagner, Smith, Kitsukawa, and Mori do not teach or suggest any determination based on a previous time period of call communication.

  The examiner respectfully disagrees. Smith teaches determination based on a previous time period of call communication (Col.4;36-42 and Col.6;20-35, determination is based on prior telephone usage).

- The applicant argues that Wagner, Smith, Kitsukawa, and Mori do not teach or suggest any minimizing communication during a time period corresponding to a previous time period of call communication.

  The examiner respectfully disagrees. Smith teaches determining a time period of call communication based on the usage information of the remote device (Col.6;28-32); and minimizing communication of event content to the

remote device during at least one future time period corresponding to the time period of call communication (Col.6;28-32, minimizes downloads during expected time periods of call communications).

Information Disclosure Statement

As stated in the Non-Final Rejection Mailed 11/16/05, The Information Disclosure Statement (IDS) submitted on 6/1/2005 has been considered by the examiner with exception to the Korean reference, KR2002046072A, since there is no translated version.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1-2, 15-16, 19, 22, 25, 28, 31, and 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner et al (U.S. 2004/0259598 A1) in view of Smith et al (U.S. 6742033 B1).

Regarding Claims 1, 15, 22, and 28, Wagner teaches receiving usage information from the remote device (Par.34;9-13, information is received before it is stored), the usage information indicating activity of the remote device during a predetermined time period (Par.47;1-6, indicates user has viewed hockey (i.e. indicates activity) during a one day time period); determining a reporting time

based on the usage information of the remote device (Par.47;1-12, determines 7:30am as reporting time and asks if that is what they want); and communicating event content to the remote device at the reporting time (Par.47; hockey report is displayed at 7:30am), however Wagner **is silent on** the usage information including a previous time period of call communication.

Smith teaches a computer program product monitors usage of internet and the telephone line to determine the most appropriate time of day to attempt access of information from an information network such as the internet (Col.4;36-42, so previous internet activity and previous period of call communications is monitored).

To one of ordinary skill in the art, it would have been obvious to modify Wagner with Smith at the time of the invention, such that the usage information includes a previous time period of call communication, to provide a method of communicating the event content to the remote device at a time which would not interfere with expected telephone usage.

With further regards to claim 15, from the Wagner reference, one of ordinary skill in the art would find it obvious that there is a transceiver (Par.31;4-7, the mobile communicates with the carrier via a transceiver), additionally, one of ordinary skill in the art would find it obvious that there is a processor (Par.33;10-15 and Par.34;15-22) for the methods recited in claim 1 above.

To one of ordinary skill in the art it would have been obvious to modify Wagner, such that there exists a transceiver and a processor, coupled to the

transceiver for receiving usage information from the remote device and communicating event content to the remote device at the reporting time; and a processor coupled to the transceiver determining a reporting time based on the usage information of the remote device, to provide a description of the hardware components necessary for implementation of the system.

With further regards to claim 22 and 28, Wagner teaches a transceiver and a processor (See rejection of Claim 15) and a user interface (See Fig.1;102, buttons and keypad), however Wagner **is silent on** requesting a remote source to communicate event content at the reporting time.

Wagner teaches that external services provide services (i.e. event content) to the user (Par.8) and Wagner teaches that there exists a service management software which provides a seamless, intuitive, and easy user experience when interceding with data services through mobile devices (Par.34). To the examiner it is obvious that one skilled in the art would envision this software to be responsible for determining a reporting time based on the usage information it receives, and further requests the external services (i.e. servers) to communicate event content at the reporting time.

To one of ordinary skill in the art, it would have been obvious to modify Wagner, such that a remote source is requested to communicate event content at the reporting time, to provide a method of ensuring that the servers provide the appropriate event content to a user at the appropriate time based on the usage patterns.

Regarding Claims 2 and 16, Smith teaches obtaining the event content before communicating the event content to the remote device at the reporting time, (Col.3;35-45) a computer program product pre-caches or downloads information that the system expects a user to request.

Regarding Claims 5, 19, 25, and 31, Wagner teaches receiving usage information from the remote device (Par.34;9-13, information is received before it is stored), the usage information indicating activity of the remote device during a predetermined time period (Par.34;9-22, determines usage patterns which is determined by monitoring activity of the remote device during a predetermined time period); however Wagner **is silent on** determining a time period of call communication based on the usage information of the remote device; and minimizing communication of event content to the remote device during at least one future time period corresponding to the time period of call communication.

Smith teaches determining a time period of call communication based on the usage information of the remote device (Col.6;28-32); and minimizing communication of event content to the remote device during at least one future time period corresponding to the time period of call communication (Col.6;28-32, minimizes downloads during expected time periods of call communications).

To one of ordinary skill in the art, it would have been obvious to modify Wagner with Smith at the time of the invention, such that a time period of call communication is determined based on the usage information of the remote device; and minimizing communication of event content to the remote device

during at least one future time period corresponding to the time period of call communication, to provide a method of reducing the risk of interfering with the users telephone and allows the content to be received as close to the user's expected access times.

With further regards to claim 19, from the Wagner reference, one of ordinary skill in the art would find it obvious that there is a transceiver (Par.31;4-7, the mobile communicates with the carrier via a transceiver), additionally, one of ordinary skill in the art would find it obvious that there is a processor (Par.33;10-15 and Par.34;15-22) for the methods recited in claim 1 above.

To one of ordinary skill in the art it would have been obvious to modify Wagner, such that there exists a transceiver and a processor, coupled to the transceiver for receiving usage information from the remote device and communicating event content to the remote device at the reporting time; and a processor coupled to the transceiver determining a reporting time based on the usage information of the remote device, to provide a description of the hardware components necessary for implementation of the system.

With further regards to claims 25 and 31, Wagner teaches a transceiver and a processor (See rejection of Claim 15) and a user interface (See Fig.1;102, buttons and keypad), however Wagner **is silent on** requesting a remote source to communicate event content at the reporting time.

Wagner teaches that external services provide services (i.e. event content) to the user (Par.8) and Wagner teaches that there exists a service

management software which provides a seamless, intuitive, and easy user experience when interceding with data services through mobile devices (Par.34). To the examiner it is obvious that one skilled in the art would envision this software to be responsible for determining a reporting time based on the usage information it receives, and further requests the external services (i.e. servers) to communicate event content at the reporting time.

To one of ordinary skill in the art, it would have been obvious to modify Wagner, such that a remote source is requested to communicate event content at the reporting time, to provide a method of ensuring that the servers provide the appropriate event content to a user at the appropriate time based on the usage patterns.

Regarding Claims 34, 35, 36, and 37, the combination as discussed above teaches all the limitations as recited in claims 1, 15, 22, and 28, and further See rejection of Claim 5.

2. Claims 3, 6, 17, 20, 23, 26, 29 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner et al (U.S. 2004/0259598 A1) and Smith et al (U.S. 6742033 B1) in further view of Kitsukawa et al (US 2002/0157092 A1).

Regarding Claim 3, 17,20, 23, 26, 29, and 32, Wagner teaches all the limitations as recited in claim 1, 15, 19, 22, 25, 28, and 31, and Wagner teaches identifying a time period of activity during the predetermined time period (Par.47;1-6, identifies 7:30am as a period of activity during a one day time period); associating the time period of activity with at least one future time period

(Par.47;10-12, associates the time period with the days to come); however Wagner **is silent on** selecting the reporting time from within a time period preceding the at least one future time period.

Kitsukawa teaches identifying a time period of activity during the predetermined time period (Par.60;5-10, access times are periods of activity), associating the time period of activity with at least one future time period (Par.60;8-10, future access times a predicted), and selecting the reporting time from within a time period preceding the at least one future time period (Par.60;12-17, downloading will occur before the reporting time (7:00 am)). The examiner notes that cellular phones and television's are both wireless communication devices.

To one of ordinary skill in the art, it would have been obvious to modify Wagner with Kitsukawa since they are from similar search areas, viz. monitoring usage information of wireless communication devices and determining a reporting time based on the usage information, such that the reporting time is selected from within a time period preceding the at least one future time period, to provide a method of guaranteeing that the content is downloaded and available to the wireless communication device (i.e. cellular phone, television; both are remote devices) at the reporting time.

With further regards to claim 20, 26, and 32, See rejection of Claim 6.

Regarding Claim 6, Wagner teaches all the limitations as recited in claim 5, and Wagner further teaches associating the time period of inactivity with the at

least one future time period (See claim 5 rejection); however Wagner **is silent on** selecting the minimizing time for minimizing communication from within a time period preceding the at least one future time period.

Kitsukawa teaches identifying a time period of activity during the predetermined time period (Par.60;5-10, access times are periods of activity), associating the time period of activity with at least one future time period (Par.60;8-10, future access times a predicted), and selecting the reporting time from within a time period preceding the at least one future time period (Par.60;12-17, downloading will occur before the reporting time (7:00 am)). The examiner notes that cellular phones and television's are both remote devices. To the examiner a skilled artisan would find it obvious that during at least one future time period corresponding to the time period of inactivity a reporting time could be selected from within a time period preceding the at least one future time period.

To one of ordinary skill in the art, it would have been obvious to modify Wagner with Kitsukawa since they are from similar search areas, viz. monitoring usage information of wireless communication devices and determining a time period of inactivity based on the usage information, such that the time period of inactivity is selected from within a time period preceding the at least one future time period, to provide a method of guaranteeing that communication of the content is ended before the future time period so that the user is not charged for more than necessary.

3. Claims 4, 7,18, 21, 24, 27, 30, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner et al (U.S. 2004/0259598 A1), Smith et al (U.S. 6742033 B1), and Kitsukawa et al (U.S. 2002/0157092 A1) in further view of Mori et al (U.S. 2002/0059628 A1).

Regarding Claims 4, 18, 21, 24, 27, 30, and 33, Wagner and Kitsukawa teach all the limitations as recited in claim 3, 17, 20, 23, 26, 28, and 32, respectively, however the combination **is silent on** selecting the reporting time from within a time period preceding the future time period includes selecting a time in advance of the future time period by a set time period.

Mori teaches transmitting a specific program (i.e. event content) a predetermined amount of time before the actual reproduction time (i.e. future time period) (Par.13;9-19). To one of ordinary skill in the art it is obvious that the reporting time is selected to be a predetermined amount of time before the future time period.

To one of ordinary skill in the art, it would have been obvious to modify Wagner and Kitsukawa, such that the reporting time is selected from within a time period preceding the future time period which includes selecting a time in advance of the future time period by a set time period, to provide a method of guaranteeing that the content is downloaded and available to the wireless communication device (i.e. cellular phone, television; both are remote devices) at the reporting time.

With further regards to Claim 21, 27, 33, See rejection of Claim 7.

Regarding Claim 7, Wagner and Kitsukawa teach all the limitations as recited in claim 6, however the combination **is silent on** selecting the time period of inactivity from within a time period preceding the future time period includes selecting a time in advance of the future time period by a set time period.

Mori teaches transmitting a specific program (i.e. event content) a predetermined amount of time before the actual reproduction time (i.e. future time period) (Par.13;9-19). To one of ordinary skill in the art it is obvious that the time period of inactivity may be selected to be a predetermined amount of time before the future time period.

To one of ordinary skill in the art, it would have been obvious to modify Wagner and Kitsukawa, such that the time period of inactivity is selected from within a time period preceding the future time period which includes selecting a time in advance of the future time period by a set time period, to provide a method of guaranteeing that communication of the content is ended before the future time period so that the user is not charged for more than necessary.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

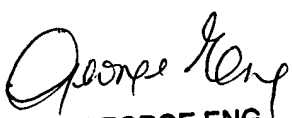
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wesley L. Kim whose telephone number is 571-272-7867. The examiner can normally be reached on Monday-Friday 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WLK



GEORGE ENG
SUPERVISORY PATENT EXAMINER